IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.787 OF 2006

Rashid Saifan Shaikh]
Age 23 years, Resident of]
Rahul Gandhi Zopadpatti]
Solapur,]
(At present lodged in]
Solapur Central Prison)]..Appellant

Vs.

The State of Maharashtra]..Respondent

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Mr.Ujwal Agandsurve Advocate for Appellant
Ms.S.V.Gajare, A.P.P. for State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : FEBRUARY 21, 2007

ORAL JUDGEMENT:

1. Heard Mr.Ujwal Agandsurve, the learned advocate for the appellant and Ms.S.V.Gajare, the learned A.P.P. for the State.

2. Through this appeal, the original accused no.1 has challenged the judgment and order dated 15.5.2006 passed by the District and Sessions Judge, Solapur in Sessions Case No. 39 of 2005. By the said judgment and order, the learned

Sessions Judge has convicted the appellant under Sections 452 and 326 of IPC. For the offence under Section 452 of IPC, the appellant has been sentenced to R.I. for six months and fine of Rs.500/- i/d S.I. for 15 days. For the offence under Section 326 of IPC, the appellant has been sentenced to R.I. for 2 years and fine of Rs.1,000/- i/d S.I. for six months. Both the substantive sentences of imprisonment were directed to run concurrently.

3. Mr.Ujwal Agandsurve, the learned advocate for the appellant has submitted that he is restricting his arguments only to the period of sentence. He has submitted that there is only one injured person i.e. P.W.1 Gori Daud Shaikh. After the incident, he was examined by P.W.4 Dr.Ghorpade. Dr.Ghorpade has categorically stated that no fracture was detected and all the injuries were simple in nature.

4. Looking to the fact that the conviction has not been challenged, I am not entering into the aspect as to whether the appellant had been rightly convicted or not. However, looking to the evidence

of Doctor and that of P.W.1.Gori Shaikh. I am inclined to reduce the sentence of imprisonment to the period undergone by the appellant i.e. 11 months.

5. In the result, the conviction of the appellant under Sections 452 and 326 of IPC is confirmed. The sentence of fine is also confirmed. However, the sentences of imprisonment imposed on the appellant, is reduced to the period already undergone by the appellant. The appellant to be released forthwith if not required in any other case.

[SMT.V.K.TAHILRAMANI, J.]